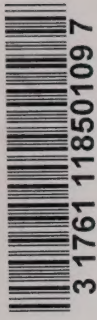


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The Regional Municipality Of Hamilton - Wentworth



SECTION 6

LAND SEVERANCE

Official Plan



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THE REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

BY-LAW NO. R79-117

BEING A BY-LAW TO ADOPT THE OFFICIAL PLAN OF THE REGION AND FORWARD IT TO THE MINISTER OF HOUSING

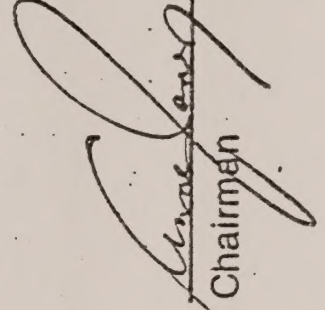
Whereas by Subsection (2) of Section 55 of the Regional Municipality of Hamilton-Wentworth Act, S.O. 1973, ch. 74, the Regional Council shall prepare, adopt and forward to the Minister of Housing (S.O. 1973, ch. 168, Sec. 15) for approval an Official Plan for the Regional Area.

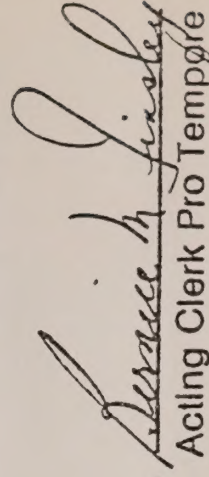
Now therefore, the Council of the Regional Municipality of Hamilton-Wentworth enacts as follows:

1. The text and maps contained in the attached document as Part II are hereby adopted as the Official Plan for The Regional Municipality of Hamilton-Wentworth. The remainder of the attached document is hereby adopted for the purposes stated on pages (iii), (iv) and 15-1.

2. The Commissioner of Planning and Development for the Region is hereby directed to forward this document to the Minister of Housing for Ontario for approval.

Read, a first, second and third time and finally passed and enacted this 19th day of June 1979.


Chairman


Acting Clerk Pro Tempore

I hereby certify the foregoing to be a true copy of By-Law No. R79-117 of The Regional Municipality of Hamilton-Wentworth which was approved by Regional Council on June 19th, 1979.

Dated at Hamilton,
this 30th day of July, 1979.

SECTION 6

LAND SEVERANCE

It is intended that the Regional Severance Policies as set out in this section will be implemented on behalf of the Municipalities by the Regional Land Division Committee.

Policies

URBAN AREAS AND RURAL AREAS

Severances within the Region will be given consideration only if the applicant demonstrates that his application for consent is warranted and in conformity with the following policies:

Linear Development

- (1) Extensions to existing linear or ribbon development along existing roadways are to be prohibited.

Access to Roads

- (2) Where alternative access is available direct access to Provincial and Regional roads from abutting properties will be discouraged. Access to Provincial Highways must conform with the access requirements of the Provincial Ministry of Transportation and Communications.

Lot Size

- (3) The long term septic disposal capability of soils as shown on Map No. I-8 is to be considered in determining lot sizes created by severance. The lot size requirement shown on this map may be varied on the basis of a soil capability-ground water impact study in relation to the proposed development. When initiated by the applicant, such a study will be prepared in accordance with the terms of reference of the Region.

Water supply

- (4) The owner must prove to the appropriate authority that a sufficient potable ground water supply is available for the intended use of the

land prior to the endorsement of the deed by the Secretary of the Land Division Committee.

Conformity to Official Plan, Zoning By-law and Planning Act.

- (5) No severance shall be permitted unless the application complies with the policies of the Regional Official Plan, Area Municipal Official Plan, the requirements of the Planning Act, and the provisions of the municipal zoning by-laws.

Policies

- (6) In considering severances for parcels of land, regard shall be had to the prevailing severance policies of Regional Council and to the stated policies of the Government.

Distance to water body

- (7) No portion of a dwelling or tile bed is to be permitted within a distance of 60 meters (200 feet) from any stream, natural watercourse or pond or 15 meters (50 feet) from a Regional floodline whichever is the greater distance and all parcels of land shall be located accordingly.

Conservation Authority

- (8) Any filling to raise the level of the land for the construction of a structure or septic tank tile field must be in accordance with the Fill and Flood Plain Regulations of the appropriate Conservation Authority.

Environmentally Sensitive Areas

- (9) Consent to sever will not be permitted in areas identified as environmentally sensitive if there is a hazardous condition or if the proposed use would detrimentally affect the environmental characteristics of the subject parcel of land, and all consents for such lands will be conditional upon the applicant submitting an acceptable

environmental impact statement to the Region for its consideration.

Floodplain

- (10) Consent to sever a parcel of land in areas within the Regional Floodplain and areas which have hazardous conditions shall be prohibited.

Woodlots

- (11) Consent for a severance shall be prohibited which would adversely affect woodlots.

Ministry of Natural Resources

- (12) Consent for a severance shall be prohibited in areas which are covered by an agreement with the Ministry of Natural Resources.

Timber Production

- (13) Consent for severance shall be prohibited in forests which include wood for timber production.

Mineral Resource Areas

- (14) Consent to sever for non-farm related residential uses will be prohibited in the potential mineral aggregate resource areas as shown on Map No. 1-4.

Distance to extractive operations

- (15) Consent to sever will be subject to the minimum distance requirement of the Province, in areas adjacent to existing or proposed mineral aggregate extraction operations.

Compatibility with extractive operations

- (16) No consent to sever for non-farm related uses will be permitted where it would be incompatible with future extractive land uses.

Lakeshore Policy Area

- (17) Consent for a severance for other than agricultural, rural residential estate, water oriented, rec-

reation and/or open space uses shall be prohibited in the Lakeshore Policy Area "A" shown on Map No. 1-5.

Subdivision in Lakeshore Policy Area

(18) Consent for a severance in Lakeshore Policy Area "A" may be considered by plan of subdivision only, and subject to the following:

- the parcel of land must not be less than 4 hectares (approximately 10 acres) in size.
- the location of all structures, except those for erosion control and/or recreational purposes shall be subject to setback requirements of the Region.

RURAL AREAS

Severances within the Rural Areas will be given consideration only if the applicant demonstrates that his application for consent is warranted and in conformity with the following policies:

Non-farm Uses

(19) Non-farm residential uses and supporting or auxiliary agricultural uses in the rural area, including agricultural/industrial and agricultural/commercial uses, shall locate in designated settlement areas, unless specifically permitted under the policies of this Plan.

Agricultural Code of Practice

(20) Consent for a severance must comply with the distance requirements of the Agricultural Code of Practice.

Location of severed parcel

(21) Any parcel severed in the rural area shall be located:

- i) on the least productive portion of the land where possible,
- ii) having appropriate frontage on a public road, and
- iii) not to interfere with the efficient agricultural operation of remaining lands and adjacent lands.

Size of Parcel

(22) In order that large tracts of land will not be left idle, the size of the parcel severed should be limited to the requirements of the intended use, and parcels severed for residential purposes in the rural area should not be larger than the lot size requirements as shown on Map No. 1-8.

Viability of farm unit

(23) No severance shall diminish the viability of a farm unit.

Lot for farm help

(24) Consent to provide a lot for farm help shall be prohibited. A second farm residence may be permitted through appropriate zoning regulations.

Rural environment & Landscape

(25) Consent for a severance shall be prohibited if such severance would adversely affect the rural environment and landscape.

Limit of settlement area

(26) Consent for a severance shall be discouraged where it would extend any rural settlement beyond that which is designated in the Regional and Area Municipal Official Plans.

<i>Infilling</i>	(27) No severance shall be permitted which creates an infilling situation which would allow for further creation of additional lots under the provisions of this Plan.	- does not create a property smaller than 10 hectares (25 acres), and - conforms with the other policies of this Plan.
<i>Soil classes 1 and 2</i>	(28) No consent to sever land in areas having soil classes 1 and 2, as defined in the Canada Land Inventory, and in specially crop areas, shall be considered except in accordance with policies 31 to 35 inclusive, and subject to the other policies of the Plan.	OR ii) If the application is considered under policies 33 to 36 inclusive.
<i>Viable farming operation in soil classes 3-7 and 0</i>	(29) No consent to sever lands in areas having soil classes 3, 4, 5, 6, 7, and 0, as defined in the Canada Land Inventory, which are part of a viable farming operation, shall be considered except in accordance with policies 31 to 35 inclusive, and subject to the other policies of the Plan.	<i>Severance (31) for a viable farming operation</i> No consents from a viable farming operation shall be considered except for one of the following farm related uses: <i>-retirement lot</i> i) A RETIREMENT LOT for a bona fide farmer so long as:
<i>Non-viable farms in soil classes 3-7 and 0</i>	(30) Lands in areas having soil classes 3, 4, 5, 6, 7, and 0, as defined in the Canada Land Inventory, which are not part of a viable farming operation shall only be considered for severance: i) If the applicant: - has a property of at least 20 hectares (50 acres), and - has owned the property for at least 10 years, and - has had no consents granted from the land within the last 10 years, and	- the farmer retains a residential lot with the existing farm dwelling and continues to live therein and conveys the remaining lands or the farmer retains a residential lot to build a retirement dwelling for himself, and conveys the farm including the existing farm dwelling, and - only one lot to the farmer is created for this purpose, and - the application conforms with the other policies of this Plan.

Retiring farmers shall be encouraged to locate in a settlement area.

Lot to son or daughter

ii) A RESIDENTIAL LOT TO A SON OR DAUGHTER of a bona fide farmer so long as:

- the farmer complies with policy 32, and
- the child's assistance is essential to the farming operation, and
- the applicant has had no severances granted from the land within the last 10 years, and
- the application conforms with the other policies of this Plan.

However, the applicant is encouraged to construct a second residence on the farm in accordance with zoning regulations rather than severing a lot, in order to retain the land and the residence as an asset of the existing farm operation.

Surplus Farmhouse

iii) A SURPLUS FARMHOUSE created as a result of a farm consolidation by a bona fide farmer so long as:

- the farmer complies with policy 32, and
- the applicant has had no severances granted from the land within the last 10 years, and

- the application conforms with the other policies of this Plan.

iv) A FARM CONSOLIDATION in accordance with policy 33.

Farm consolidation

(32) No consents under policy 31 shall be considered:

Requirements for Policy 31

- i) Unless the applicant has a viable farming operation, and

ii) Unless the applicant has owned, resided on and actively farmed the property for the last 10 years, and

iii) Unless the applicant has owned the land prior to January 1, 1977, and

iv) Unless the remaining parcel of land, or for the retiring farmer, the conveyed parcel of land is a viable farming operation and not less than 18.5 hectares (45 acres) in size.

However, no consent will be granted if the applicant has already had 2 previous severances from his lands, unless the present application is for a retirement lot.

Policy 32 does not apply to applications for farm consolidation.

Farm consolidation

(33) A consent may be considered if it is necessary for the consolidation of productive agricultural holdings by the acquisition of abutting lands for the purposes of increasing the size of or establishing a viable farming operation.

Infilling

(34) A consent to sever a parcel of land for INFILLING PURPOSES may be considered so long as:

- i) the subject land is fronting on a public roadway, and
- ii) the subject land is situated between two existing "non-farm" residential dwellings which are not more than 60 meters (200 feet) apart, and
- iii) the subject land is situated within existing linear development, and
- iv) the application conforms with the other policies of this Plan.

Existing dwellings

(35) A consent to sever a residential lot may be considered if the total existing property is not greater than 0.8 hectares (2 acres) in size and contains more than one residential dwelling.

Rural Residential estate

(36) A consent to sever for rural residential estate development shall be considered only as part of a plan of subdivision, if permitted by the Area Municipal Official Plan.

URBAN AREAS

Severances within the Urban Policy Areas will be given consideration only if the applicant demonstrates that his application for a consent is warranted and in conformity with policies 1 to 18 inclusive and the following policies:

Municipal Services

(37) Consents for severance shall be prohibited for any land which does not have adequate municipal services.

Extension of urban area

(38) Consents for severance shall be discouraged where the urban area would be extended beyond that which is designated in the Regional and Area Municipal Official Plans.

Land Assembly

(39) Consents for severance shall be discouraged where such severance would interfere with land assembly for the purpose of planned development.

PARKWAY BELT WEST POLICY AREAS

Severances within the Parkway Belt West Policy Areas are subject to policies contained under Section 4 of this Plan. In addition, severances will be given consideration only if the applicant demonstrates that his application for consent is warranted and in conformity with policies 1 to 36 inclusive, and the following policies:

*Non-farm
residential
development*

(40) Consents for non-farm residential development may be considered in the complementary use areas, provided that:

- i) Any parcels so created for residential purposes are not less than 4 hectares (approximately 10 acres) and the development is subject to the authorities having jurisdiction, and
- ii) The owner of such a lot created by consent enters into an agreement with the Area Muni-

cipality under The Planning Act as may be necessary to regulate the siting and appearance of buildings, alterations to the grade or drainage of the land, variation of existing vegetation, replanting or other such matters Council is empowered to regulate.

*Residential
Estate
Development*

(41) Severances to create lots of less than 4 hectares (approximately 10 acres) may be considered in the complementary use areas for residential estate development subject to the policies of this Plan.

14.12 DEFINITIONS

The following definitions apply for the purposes of this Plan.

CONSERVATION AUTHORITIES

- The Hamilton Region Conservation Authority, the Grand River Conservation Authority, the Niagara Peninsula Conservation Authority, and the Halton Region Conservation Authority.

FARM

- The land which is operated and used by a farmer for the primary, secondary, or associated activity or a combination thereof for the production of food and/or agricultural goods.

FARMER

- A person who resides on and owns a viable farm operation and whose principal activity is the production of food and/or agricultural goods and who derives

over half of his earned income from the sale of farm products.

FLOOD PLAIN

- Areas susceptible to flooding of a water course and delineated on maps by flood lines.

FLOODLINES

- Contour lines (elevations) on maps delineating land, which will be flooded during a Regional storm of an assumed intensity of rainfall as determined by the Conservation Authorities in conjunction with the Ontario Ministry of Natural Resources.

FORESTS AND WOODLOT

- A forested area comprising of 10 hectares (25 acres) or more, where livestock does not pasture or roam and which contains one or more of the following species of trees: pine, spruce, hemlock, tamarack, oak, cedar, balsam, fir, birch, ash, hickory, basswood, tulip, black cherry, walnut, beech, butternut, chestnut, maple, sycamore, locust, black gum, sassafras and poplar.

The woodlot must have in addition to the above:

1. 1,000 trees per hectare (400 trees per acre) of any size, or
2. 750 trees per hectare (300 trees per acre) measuring over 5 cms. (2 inches) in diameter, or

3. 500 trees per hectare (200 trees per acre) measuring over 12 cms. (5 inches) in diameter, or

4. 250 trees per hectare (100 trees per acre) measuring over 20 cms. (8 inches) in diameter.

HAZARD LANDS

- All lands having inherent physical hazards such as poor drainage, organic soils, flood susceptibility, erosion susceptibility, steep slopes and other physical limitations to development.

IDENTIFICATION CRITERIA

The following factors are used to define Hazard Lands:

1. flood plains
2. soil conditions
3. erosion, and
4. soil stability.

Outlined in the following are the criteria utilized to identify these Hazard Land factors in any given area:

(A) Bedrock

a) bedrock outcrops

b) very shallow depth of overburden

(B) Soils:

a) unstable silts and clays

b) alluvial soils

c) marshy and swampy organic soils

(C) Slopes:

a) areas with slopes in excess of 14%

(D) Surface Drainage:

a) areas with poor drainage

b) areas with high water table

c) swampy and marshy areas

d) streams and watercourses

e) drainage channels

(E) Susceptibility to Erosion

a) slopes in excess of 12% with gravely sandy to fine sandy loams having little or no surface cover.

b) slopes in excess of 10% with gravely sand or silty loams without appropriate surface cover.

c) areas with fine textured soils.

HOUSE (FOR POLICIES UNDER LAND SEVERANCE)

- A separate building containing a dwelling which must include habitable and amenity rooms which are intended for human occupancy and must comply with the regulations of the applicable Building Code and the Regional Health Unit.

MOBILE HOME

- A transportable single family dwelling unit, suitable for long term occupancy, designed to be transported on its own wheels or by other means and ready for occupancy at arrival on site except for the incidental operations such as laying of foundations and utility connections.

PRIME AGRICULTURE OR HIGH CAPABILITY AGRICULTURAL LANDS

- Lands containing agricultural soil classes 1 and/or 2 of the Canada Land Inventory and generally free from the intrusion of non-farm housing, and other industrial and recreational uses.

RURAL RESIDENTIAL ESTATE DEVELOPMENT

- Low density, detached housing development in the Rural Policy Areas, with a minimum lot size of 0.6 hectare, (1.5 acres) which will not result in adverse economic, social and environmental impacts.

SPECIALTY CROP AREAS

- Areas where a combination of special soils and climate exist providing the most desirable conditions for the production of tender fruits (peaches and sweet cherries).

URBAN TRANSIT AREA

- That area within the Region against which Regional Council may by by-law, levy the sums required

to meet any deficit arising out of the operation of the Regional Public Transportation System within its boundaries. The Urban Transit Area at present, contains the City of Hamilton.

VIABLE FARM OPERATION

- A farm operation which under the operator's management generates sufficient income to:
 - support a farm family
 - cover operating and maintenance costs of the operation of the farm.
 - repay debts, associated with the operation of the farm.
 - provide for capital improvements in buildings and equipment to increase efficiency and productivity of the farm operation.

